

REMARKS

In the Final Office Action, the Examiner rejected claims 1-4 and 51-61. By this paper, the Applicants hereby cancel claim 59 and amend claims 60 and 61 to clarify certain features to expedite allowance of the present application.

On June 19, 2006, the Applicants filed evidence pursuant to 37 C.F.R. § 1.131 to swear behind Barkhoudarian, U.S. Patent Application Publication No. 2004/0060371, which is the basis for all of the rejections in the present Final Office Action. In the Final Office Action, the Examiner asserted that the evidence was not persuasive. *See* Final Office Action, page 8. For at least the reasons set forth below, the Applicants stress that the previously filed evidence in its entirety is sufficient to show actual reduction to practice before the effective filing date of Barkhoudarian.

Accordingly, the Applicants submit that the present application is currently in condition for allowance.

Interview Summary

On September 6, 2006, the Applicants' representative, Tait R. Swanson (Reg. No. 48,226), initiated a telephonic interview with the Examiner to discuss the sufficiency of the evidence to swear behind Barkhoudarian. Specifically, the Examiner and the Applicants' representative discussed items 1 and 2 of the Examiner's response to arguments on page 8 of the Final Office Action.

Regarding item 1, the Examiner initially believed that only one inventor signed the declaration pursuant to 37 C.F.R. § 1.131 (hereinafter, "Rule 131 Declaration"). However, the Applicants' representative pointed out and the Examiner agreed that the previously filed evidence did in fact include Rule 131 Declarations signed by all six inventors in the present application. As a result, the Examiner agreed that the Rule 131 Declarations were in fact properly signed in accordance with M.P.E.P. § 715.04.

Regarding item 2, the Examiner suggested that the previously filed evidence did not show a turbomachine or remote monitoring. *See* Final Office Action, page 8. During the interview, the Applicants' representative cited M.P.E.P. § 715.07, which states:

However, when reviewing a 37 CFR 1.131 affidavit or declaration, the examiner must consider all of the evidence presented in its entirety, including the affidavits or declarations and all accompanying exhibits, records and "notes." An accompanying exhibit need not support all claimed limitations, provided that any missing limitation is supported by the declaration itself. *Ex parte Ovshinsky*, 10 USPQ2d 1075 (Bd. Pat. App. & Inter. 1989). (Emphasis added)

In view of this passage, the Applicants' representative stressed that the Rule 131 Declarations clearly correlate the Exhibits A and B with a turbomachine. Thus, the Applicants' representative further emphasized that the evidence (e.g., Exhibits A and B and Rule 131 Declarations), taken in its entirety, is sufficient to show prior invention of the claimed subject matter. Unfortunately, the Examiner and Applicants' representative did not reach an agreement with regard to this second item.

Rejections Under 35 U.S.C. § 112

In the Final Office Action, the Examiner rejected claims 60-61 in view of the phrase "at least substantially." Although the Applicants respectfully disagree with this rejection, the Applicants hereby amend claims 60-61 to remove this phrase to expedite allowance of the present application. As a result, the Applicants respectfully request withdrawal of the foregoing rejection.

Rejections Under 35 U.S.C. § 102

In addition, the Examiner rejected claims 1, 3, 4, and 51-58 under 35 U.S.C. § 102(e) as anticipated by Barkhoudarian. In view of the earlier date of invention of the subject matter disclosed and claimed in the present application, Applicants have chosen to remove the Barkhoudarian pursuant to 37 C.F.R. § 1.131. Under Rule 131, the

Applicants may overcome a prior art rejection by filing an appropriate declaration that establishes invention of the claimed subject matter by the Applicants prior to the effective date of the reference relied upon in the rejection. Prior invention may be shown by proving actual reduction to practice prior to the effective date of the reference. As presented in the papers previously filed on June 19, 2006, the Applicants respectfully stress that the Rule 131 Declarations and Exhibits A and B are sufficient to show actual reduction to practice of the claimed subject matter prior to the effective date of Barkhoudarian. *See* Rule 131 Declarations and Exhibits A and B previously filed on June 19, 2006.

Response to Examiner's Arguments

As discussed above in the interview summary, the Examiner asserted that the "evidence show (*sic*) the vibration and rub detection, but it fails to shows (*sic*) the vibration and rub detection has anything to do with turbo machine." Final Office Action, page 8. The Applicants respectfully disagree. The Applicants submit that the Exhibits A and B do in fact relate to a Turbine Generator (TG). *See* Exhibit A previously filed on June 19, 1006. For example, Exhibit A specifically discloses "Rotor locks in and vibrates at its first critical" and "Sudden large shell temperature ramp" in the slide labeled "Modified Algorithms based on feed back received from review meeting." *Id.* (emphasis added). The rotor and shell are also disclosed in other portions of the Exhibit A. The Applicants stress that the present application discloses that "Turbomachines generally have a centrally disposed rotor that rotates within a stationary cylinder or shell." Application, paragraph [0002] (emphasis added). For at least these reasons, one of ordinary skill in the art would appreciate that the exhibits relate to a turbomachine.

In addition, Section 715.07 of the Manual of Patent Examining Procedure indicates that the Examiner must consider all evidence taken as a whole, rather than considering the exhibits independent from the Rule 131 Declarations, or vice versa. *See* M.P.E.P. § 715.07. As discussed above, the Rule 131 Declarations clearly correlate the

Exhibits A and B to a turbomachine as recited in the claims. It appears that the Examiner has ignored the Rule 131 Declarations, and the specific statements made by the inventors. For at least this additional reason, the Applicants emphasize that the Exhibits A and B, taken alone or together with the Rule 131 Declarations, are sufficient to establish prior invention of the claimed subject matter, as set forth below.

Regarding item 2 in the Examiner's response to arguments, the Applicants respectfully disagree with the Examiner's position, but hereby cancel claim 59 to expedite allowance of the present application. As a result, the Applicants stress that no outstanding issues remain with regard to the Exhibits A and B and associated Rule 131 Declarations.

Removal of Barkhoudarian pursuant to 37 C.F.R. § 1.131

The effective date of Barkhoudarian is September 30, 2002. In paragraph 3 of the attached Rule 131 Declarations, the inventors declare that the subject matter disclosed and claimed in the above-referenced application was conceived in the United States, a NAFTA country, or a WTO country at least prior to September 30, 2002. Applicants further submit that Exhibit A in its entirety, along with the corresponding Rule 131 Declarations, is sufficient to demonstrate conception of the claimed subject matter at least prior to September 30, 2002. Specifically, this conception is evidenced by slides 1, 2, 5, 9, and 14 of a PowerPoint presentation relating to "Modified Algorithms based on feed back received from review meeting," as indicated by slide 1. *See* Rule 131 Declarations, paragraph 3; Exhibit A. These slides generally illustrate and describe systems and methods for monitoring operational parameters of a turbomachine (e.g., on site) via various sensors, identifying anomalies in data received from sensors, and detecting possible rub events. *See id.* Slide 2 is labeled "High Differential Expansion along with High Vibration," and illustrates and describes monitoring bearing vibration, checking for abnormal amplitude or variation, and triggering an alarm if an anomaly is observed with the bearing vibration. *See id.* Slide 5 is labeled "High eccentricity following vibration excursion," and illustrates and

describes monitoring or checking for abnormalities associated with vibration or eccentricity, and identifying a possible rub during shut down. *See id.* Slide 9 is labeled "Sudden large shell temperature ramp," and illustrates and describes monitoring parameters, identifying an abnormal change in steam and shell metal temperature, identifying an abnormal change in vibration, and identifying a possible rub event. *See id.* Slide 14 is labeled "Rub Anomaly Flow Down," and illustrates and describes various techniques for monitoring and identifying abnormalities to identify a possible rub event. *See id.* In view of the foregoing evidence, the Applicants stress that subject matter disclosed and claimed in the present application was conceived at least prior to the September 30, 2002, effective filing date of Barkhoudarian.

As indicated by paragraph 4 of the attached Rule 131 Declarations, the inventors declare that the subject matter disclosed and claimed in the above-referenced application was actually reduced to practice in the United States, a NAFTA country, or a WTO country at least prior to September 30, 2002. Applicants further submit that Exhibit B in its entirety, along with the corresponding Rule 131 Declarations, is sufficient to demonstrate actual reduction to practice of the claimed subject matter at least prior to September 30, 2002. This actual reduction to practice is evidenced by the Excel graph labeled "Desk Top validation results," which records successful completion and testing of a prototype of the method and system set forth and claimed in the referenced application at least prior to September 30, 2002. *See* Rule 131 Declarations, paragraph 4; Exhibit B. Specifically, the Excel graph represents data collected while monitoring the operation of a turbomachine, and indicates anomalies that correspond to possible rub events in the turbomachine. *See id.* The Excel graph illustrates variation in speed relative to time and four different alarms indicative of a possible rub event. *See id.* In view of the foregoing evidence, the Applicants stress that subject matter disclosed and claimed in the present application was actually reduced to practice at least prior to the September 30, 2002, effective filing date of Barkhoudarian.

Accordingly, in view of the Applicants' earlier reduction to practice, the Applicants respectfully request that the Examiner remove Barkhoudarian from consideration and withdraw all outstanding rejections based on Barkhoudarian. Upon removal of Barkhoudarian, the Applicants stress that the pending claims are in condition for allowance.

Rejections Under 35 U.S.C. § 103

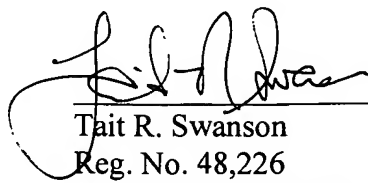
In the Final Office Action, the Examiner rejected claims 2 and 59 under 35 U.S.C. § 103(a) as unpatentable over Barkhoudarian in view of Ghanime, U.S. Patent No. 6,591,296. Claims 2 and 59 depend from independent claims 1 and 56, respectively. The Applicants stress that the foregoing rejections are moot in view of the removal of Barkhoudarian pursuant to 37 C.F.R. § 1.131. Accordingly, the Applicants respectfully request withdrawal of the foregoing rejection under 35 U.S.C. § 103.

Conclusion

The Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

Date: September 6, 2006


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